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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/133,755	08/13/98	JOHNSON	J 10172-9013-I
		IM62/0322	EXAMINER
			GRAY, L
		ART UNIT	PAPER NUMBER
		1734	7
		DATE MAILED:	03/22/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No. <b>09/133,755</b>	Applicant(s) <b>Johnson</b>
	Examiner <b>Linda L. Gray</b>	Group Art Unit <b>1734</b>

Responsive to communication(s) filed on 8-13-98

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 56-60 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 56-60 is/are rejected.

Claim(s) 56-60 is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on 8-13-98 (corrected ones) is/are objected to by the Examiner.

The proposed drawing correction, filed on 8-13-98 is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## **DETAILED ACTION**

### **Oath/Declaration**

1. The declaration is defective. A new declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required, MPEP §602.01 and §602.02. The declaration is defective because the filing dates of 60/036,186 and 60/035,051 are incorrect.

### **Drawings**

2. The drawings are objected to because **one**, the following signs point to the incorrect location: **(a)** 360 at the top, 430 above 1267, 1090 (Fig 1), **(b)** 420 (Fig 2), **(c)** 900, 960 (Fig 12), **(d)** 2004 (Fig 18), **(e)** 2152 (Fig 20A), **(f)** 2116 (Fig 25), **(g)** 2038 (Fig 27), **(h)** 2038, 2044, 2047 (Fig 28), **(I)** 2047 (Fig 30), **(j)** 410 (Fig 32), and **(k)** 12,1 4 (Fig 45); **two**, sign 2146 points to a first location in Figure 34, a second location in Figure 35, and a third location in Figures 36-38; **three**, sign 2043, Figure 18, should be 2041; and **four**, sign D, Figure 48, along the bottom should be D'.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference signs not mentioned in the description: **(a)** 21 (Fig 1), **(b)** 755 (Fig 10, 11), **(c)** 990 (Fig 14), **(d)** 1015 (Fig 15), **(e)** V' (Fig 17), **(f)** w^v, **(g)** w^w (Fig 19), **(h)** 16 (Fig 19) [note: sign 16 in the description is for end 16 in Fig 44], **(I)** 211 (Fig 20A), **(j)** 2057 (Fig 20A), **(k)** 2061 (Fig 32), **(l)** 2160 (Fig 35, 37), **(m)** 3090 (Fig 39A), **(n)** 5006 (Fig 43), **(o)** 2 denoting a cross section (Fig 44) [note: sign 2 in the description is for an end 2 in Fig 44-45], **(p)** 155 (Fig 48), **(q)** 158' (Fig 48-49), **(r)** 180 (Fig 56), **(s)** 400 (Fig 56) [note: sign 400 in the description is for a control device in Fig 1], **(t)** 243 (Fig 56), and **(u)** 3' (Fig 57).

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference signs mentioned in the description: **(a)** 12 [note: when used to define a seal and not phantom lines 12 in Fig 54], **(b)** 32 [note: when used to define a web and not a cylinder in Fig 46], **(c)** 70 [note: when used to define a dotted line and not an aperture in Fig 54], **(d)** 105, **(e)** 150 [note: when used to define nip rollers and not tape 150 as in Fig 56], **(f)** 160, a motor and 160, a punch device, **(g)** 170, **(h)** 180 [note: 180 in Fig 56 is not air], **(I)** 200 [note: when used to define a cut and not a loop side as in Fig 4 or an apparatus as in Fig 56], **(j)** 245, **(k)** 310, **(l)** 520 [note: when used to define a dancer and not an arm as in Figure 2], **(m)** 600, **(n)** 710, **(o)** 775, **(p)** 832, **(q)** 1000, **(r)** 1005, **(s)** 1070, **(t)** 1140, **(u)** 1160, **(v)** 1202, **(w)** 1220, **(x)** 2056', **(y)** 2063, **(z)** 2065, **(aa)** 2113-17, **(bb)** 2129A, **(cc)** 2148, **(dd)** 2155, **(ee)** 2183, **(ff)** 2210 [note: when used to define a barrier and not a first extruded base tape as in Fig 41], **(gg)** 2567, **(hh)** 5005, and **(ii)** 72 [note: when used to define a bilaminate and not an aperture as in Figure 54 or an upper grip as in Fig 57].

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because **(a)** 2 designate "an end" and "a cross section" (Fig 44), **(b)** 12 designates "a seal" and "phantom lines", **(c)** 32 designate "a web" and "a cylinder", **(d)** 70 designates "an aperture" and "a dotted line", **(e)** 72 designates "an aperture", "a bilaminated", and "an upper grip part", **(f)** 74 designates "a end" and "an arrow", **(g)** 76 designates "storage volume" and "an end", **(h)** 80 designates "temporary storage" and "a seal", **(I)** 150 designates "nip rollers" and "a tape", **(j)** 160 designates "a motor" and "a punch device", **(k)** 180 designates "air" and "an item in Figure 56" not yet defined, **(l)** 200 designates "a cut", "a loop side", and "an apparatus", **(m)** 202 designates "a second step" (Fig 3) and "a web", **(n)** 520 designates "a dancer" and "an arm", **(o)** 2045 designates "an arrow" and "an end", **(p)** 2056 designates "a vacuum" and "a seal", **(q)** 2058 designates "a seal" and "a top end", **(r)** 2059 designates "a seal bar" and "a bottom end", **(s)** 2162 designates "a seal bed" and "a seal", and **(t)** 2210 designates "a first extruded base tape" and "a barrier".

### Specification

6. The disclosure is objected to because **(a)** 110 should be 100 (p 15, L 9; 17, L 2), **(b)** 1A should be 1 (p 15, L 21), **(c)** 100 (second) should be 110 (p 17, L 6), **(d)** 1070 should be 1110 (p 23, L 5), **(e)** delete 1265 (p 23, L 18), **(f)** 2004 is incorrect (p 25, L 13), **(g)** 2018 should be 2014 (p 28, L 9), **(h)** the drawings are not colored photographs (p 28, L 11), **(i)** 403 is incorrect (p 30, L 5), **(j)** 2047 should be 2179 (p 30, L 19), **(k)** 2130 is incorrect (p 31, L 10), **(l)** 2130G is incorrect (p 31, L 14 and 21), **(m)** 2130B is incorrect (p 31, L 22), **(n)** 2109 should be 2109A (p 32, L 1), **(o)** 2056 (first) should be 2056' (p 32, L 23), **(p)** 2154 is incorrect (P 34, L 23), **(q)** 1140 2200 is incorrect (p 36, L 3), **(r)** 2210 should be 2206 (p 36, L 16 and 18), **(s)** 2210 should be deleted (p 36, L 19), **(t)** 2056 should be 2032, 2154 (p 37, L 17), **(u)** 1140 should be 2138 (p 37, L 20 and 22), **(v)** insert "2058," before 2060 (p 39, L 5), **(w)** 2043 should be 2041 (p 27, L 6), **(x)** 100A in the disclosure should be 270, **(y)** 114 in the disclosure should be 280, and **(z)** 2000 should be 2200 (p 36, L 2).

7. The use of the trademark DELRIN (p 32, L 8) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology. Although the use of trademarks is permissible in patent applications, the proprietary nature of the trademarks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks. Also, see TEFLON (p 32, L 11).

8. Applicant is reminded of the proper language and format for an abstract of the disclosure:

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 250 words. It is important that the abstract not exceed 250 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because (a) "The present invention includes" (L 1), (b) "of the present invention" (L 15), MPEP §608.01(b).

### **Claim Objections**

**9. Claims 56-60 are objected to because "forma" (claim 56, L 2) should be "form a".**

### **Claim Rejections - 35 USC § 112**

**10. The following is a quotation of the first paragraph of 35 U.S.C. 112:**

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**11. Claims 56-60 rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.**

The amendment to claim 56 that the tape is sealed for a bag wall is not supported in the originally filed application in that the originally filed application supports sealing the tape to a web that becomes a bag, not to a bag pre se.

### **Prior Art of Record**

**12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure: La Pierre et al. and Palmisano teach making a fastener by extruding a fastener side and a separate complimentary side to separate portions of a tape and then folding the tape to connect the sides.**

### **Allowable Subject Matter**

**13. Claims 56-60 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, and the objections set forth in this Office action.**

**14.** The following is a statement of reasons for the indication of allowable subject matter:

**Claim 56**, while the prior art of record teaches making a fastener including a tape having an interlocked fastener assembly thereon by connecting a fastener side of the assembly to a portion of a tape, connecting a complimentary side of the assembly to another portion of the tape, and then folding the tape to connect the two sides, the prior art of record does not teach or suggest applying the interlocked fastener assembly, including both the fastener and complimentary sides, to one portion of the tape on the fastener side and then folding the tape over the complimentary side to connect the complimentary side to the tape.

**15.** Since allowable subject matter has been indicated, Applicant is encouraged to submit formal drawings in response to this Office action. The early submission of formal drawings will permit the Office to review the drawings for acceptability and to resolve any informalities remaining therein before the application is passed to issue. This will avoid possible delays in the issue process.

As allowable subject matter has been indicated, Applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with, 37 CFR 1.111(b) and MPEP § 707.07(a).

### **Response**

**16.** The substitute specification and formal drawings filed 8-13-98 have been entered. The enclosed Notice of Draftperson's pertains to the formal drawings. The amendment to claim 56 has been entered. With respect to Applicant's comment on page 2 (para 4) of the amendment filed 8-13-98, no such petition is of record. The Declaration filed 2-28-98 has been entered.

### **Conclusion**

**17.** Any inquiry concerning this communication or earlier communications should be directed to Examiner Linda L. Gray at (703)308-1093, Monday-Friday from 8:00 am to 4:30 pm. The necessary fax numbers are (703)305-7718 (official faxes), (703)305-7115 (unofficial faxes), and (703)305-3599 (faxes after final Office action).

llg elg  
March 20, 2000

*Linda L. Gray*  
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Art Unit 1734